

TOMMY BATTLE
MAYOR

CITY OF HUNTSVILLE
OFFICE OF THE CITY ATTORNEY

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HUNTSVILLE, ALABAMA 35804

TELEPHONE (256) 427-5026
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March 14, 2019

MELISSA STOKES
Claims Representative

Mr. Mark Harris
MuckRock News
DEPT MR 59698
411A Highland Ave.
Somerville, MA 02144-2516

RE: Records Request – Blue Origin Incentives (2nd Response)

Dear Mr. Harris:

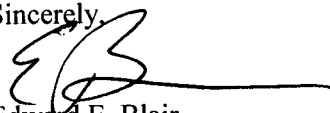
I have received your request of March 14, 2019 for records under the Alabama Open Records Law § 36-12-40 et seq. According to our records we responded to your request on February 4, 2019 (Copy attached).

The FOIA (Freedom of Information Act) as a matter of clarification is a federal provision that is primarily concerned with the several federal agencies and making certain information is public and available, but that act does not have applicability to state and local entities. Section 36-12-40, commonly referred to as the Alabama Open Records Law, states that “*every citizen* has a right to inspect and take a copy of any public writing of this state, except as otherwise expressly provided by statute.” It is therefore axiomatic that an Alabama statute that references the rights of a citizen denotes the rights of a person who is a resident of this state.

The Alabama Supreme Court has limited the import of section 36-12-40 to Alabama citizens. *See State ex rel Kernells v. Ezell*, 291 Ala. 440. (Ala.1973). Also, in *Stone v. Consol. Publ’g Co.*, 404 So. 2d 678, 681 (1981) which states that public writings of the state are records that record the activities of public officers so that the status or condition of ...activities can be known by *our citizens*. The United States Supreme Court in *McBurney v. Young*, 133 S. Ct. 1709, 1714 (2013) ruled that a state’s public records law limited access to public records to only the citizens of that state. MuckRock is, therefore, not considered a *citizen*. Alabama Attorney General Opinion 2018-030 has concluded that generally, access to public records is limited to requests by Alabama citizens only.

Accordingly, we are unable to fulfill your request.

Sincerely,



Edward E. Blair
Assistant City Attorney

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MELISSA STOKES
Claims Representative

February 4, 2019

Mr. Mark Harris
MuckRock News
DEPT MR 59698
411A Highland Ave.
Somerville, MA 02144-2516

RE: Records Request

Dear Mr. Harris:


I have received your request of January 31, 2019 for records under the Alabama Open Records Law § 36-12-40 et seq.

The FOIA (Freedom of Information Act) as a matter of clarification is a federal provision that is primarily concerned with the several federal agencies and making certain information is public and available, but that act does not have applicability to state and local entities. Section 36-12-40, commonly referred to as the Alabama Open Records Law, states that "*every citizen* has a right to inspect and take a copy of any public writing of this state, except as otherwise expressly provided by statute." It is therefore axiomatic that an Alabama statute that references the rights of a citizen denotes the rights of a person who is a resident of this state.

The Alabama Supreme Court has limited the import of section 36-12-40 to Alabama citizens. *See State ex rel Kernells v. Ezell*, 291 Ala. 440. (Ala.1973). Also, in *Stone v. Consol. Publ'g Co.*, 404 So. 2d 678, 681 (1981) which states that public writings of the state are records that record the activities of public officers so that the status or condition of ...activities can be known by *our citizens*. The United States Supreme Court in *McBurney v. Young*, 133 S. Ct. 1709, 1714 (2013) ruled that a state's public records law limited access to public records to only the citizens of that state. MuckRock is, therefore, not considered a *citizen*. Alabama Attorney General Opinion 2018-030 has concluded that generally, access to public records is limited to requests by Alabama citizens only.

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